

EXHIBIT L

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April 27, 2022

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VIA EMAIL

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Winstead PC
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Re: Purported Eminent Domain Taking from Lonestar Airport Holdings, LLC, of its Rights at Austin Bergstrom International Airport ("AUS") - Response to March 29, 2022 Initial Offer Letter

Dear Mr. Forestier:

On behalf of our Client, Lonestar Airport Holdings, LLC ("Lonestar"), we write in response to your Initial Offer Letter dated March 29, 2022 on behalf of your Client, the City of Austin (the "City").

The City's offer (the "Initial Offer") of \$1,954,000 for Lonestar's interests under its 40-year airport concession agreement is objectively offensive. The Initial Offer is far below the substantial amount of capital Lonestar has invested in the South Terminal facility and entirely ignores the development and other rights granted to Lonestar in the concession agreement, which was entered into with the City just six years ago after an open, public discussion at the City Council and with the City Council's unanimous approval.

The condemnation process is nothing but a bad-faith attempt to wrongfully circumvent the terms of the concession agreement and deprive Lonestar of the benefit of its bargain in order to advance the agenda of a new airport administration that would prefer not to be bound by its predecessor's decisions. There is no doubt, however, that Lonestar has fully performed its obligations under the concession agreement. It is widely acknowledged that Lonestar has materially upgraded the South Terminal facility and improved overall airport operations for the benefit of the traveling public. Lonestar's South Terminal employs over 200 local citizens and has provided more than 2.6 million passengers with access to ultra-low fare, safe and enjoyable travel to and from Austin since 2016.

Given the foregoing, and the more detailed points set forth below, Lonestar hereby formally rejects the City's Initial Offer. Lonestar will not permit the City to wrongfully condemn its way out of its binding contractual obligations.

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1. The Austin City Council unanimously approved a forty-year lease and concession agreement with Lonestar that was signed by the City on March 24, 2016 (the “Concession”).

This Initial Offer is a continuation down the path taken by the Department of Aviation’s current administration to subvert the City’s 2016 decision that the best way to allow AUS to grow efficiently and economically is through a public-private partnership, rather than burdening Austin’s citizens with the excess costs.

2. With express reliance on the aforementioned 40-year lease and concession agreement, Lonestar has invested substantial amounts of its own capital in South Terminal improvements, airline passenger infrastructure, passenger growth and increased route options. It has also worked diligently, and in the spirit of partnership, to help the Department of Aviation increase capacity (at Lonestar’s sole expense) at the airport at a time when the City desperately needs terminal space. The City now purports to condemn its way out of this agreement by taking all of Lonestar’s interests at AUS for \$1,954,000.

The City’s Initial Offer fails to reimburse Lonestar for even the amounts my client has invested developing the South Terminal, which are exponentially higher than the Initial Offer. The Initial Offer, moreover, entirely ignores both the value of the operating enterprise at the South Terminal which will be eliminated by this taking - which obviously cannot be relocated elsewhere - as well as the investment made into the South Terminal by Lonestar. In addition, the Initial Offer completely ignores the bargained-for rights contained in the parties’ South Terminal Concession, particularly the redevelopment rights contained in Article 15 of the Concession. Moreover, the City’s Initial Offer fails to account in any way for the value Lonestar has created during the last six years, much less the value to be created over the remaining 34-year term of the Concession.

As the City knows, Lonestar sought to potentially bring on a partner in the South Terminal prior to the City starting down the road that culminated in this purported taking, and received multiple offers for *hundreds of millions of dollars*. The City wrongfully eliminated this market by threatening a taking of South Terminal by eminent domain, creating enormous losses for Lonestar and potential damage exposure for the City.

3. The City’s effort to utilize eminent domain to take Lonestar’s bargained-for redevelopment rights so that it may claim those rights for itself violates Texas condemnation law.

The City’s strategy to use eminent domain to condemn a) Lonestar’s exclusive contractual redevelopment rights under Article 15 and b) its rights to operate a forty-year concession at AUS so that the City may claim those redevelopment and concession rights for itself violates Texas condemnation law. See *City of Blue Mound v. Southwest Water*, 449 S.W.3d 678 (2014), and its progeny. *Blue Mound* remains controlling law in Texas, and we fully expect that the courts will



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reject the City's efforts to attempt a hostile taking of Lonestar's business so that it may operate that business itself. The City's own Executive Director at AUS candidly stated the primary goal of this effort was to regain local control of the facility in contravention of the rights granted to Lonestar by the City under the Concession. The proposed construction and location of a taxiway overtop our facility is unnecessary and simply intended to advance the City's condemnation action. There are numerous commercially viable alternatives to the proposed taxiway that we have presented to the City.

Practically speaking as Austinites, it is difficult to understand why the City would jettison an experienced and efficient redevelopment partner that the City already has under contract, especially during this time of difficulty and uncertainty at AUS. Given recent events at the airport as passenger volumes continue to skyrocket, Lonestar's ability to help the City redevelop AUS is particularly needed right now, but the City is inexplicably ignoring a trusted, capable and proven partner that would relieve expenses and operational burdens the City is preparing to lay at the feet of airport passengers and those of us that call Austin home. In addition, the City's chosen path is certain to result in years of unnecessary litigation, adding cost and bottlenecks to its already complicated Airport Expansion and Development Plan.

4. When the City entered a 40-year public-private partnership with Lonestar, your Client expected exceptional performance and a successful partnership, and that is what it has received.

Since the South Terminal opened in 2017 after Lonestar's refurbishment of the facility, the South Terminal has accommodated more 2.6 million passengers on more than 21,000 departing and arriving flights and has directly supported more than 200 jobs in Austin.

Ultra-low-cost airline service has flourished in the Austin market, truly to the benefit of the travelling public. In 2016, ultra-low-cost carriers offered just 1,675 departing flights from the airport. In 2019, thanks to Lonestar's capable operation of the South Terminal, that number jumped to more than 6,500 departing flights. Today, Frontier and Allegiant operate from the terminal, offering low fares and nonstop service to 24 cities from Austin, with 3 new routes to be added this month. The current and projected availability of ultra-low-cost airline service is a financial impossibility without the South Terminal, leaving price-sensitive customers with fewer choices when traveling to and from AUS.

5. At the request of the Department of Aviation in 2019, Lonestar made a significant investment to design plans that would expand ultra-low-cost carrier service at AUS.

Lonestar has long recognized the sharp growth in Austin and the need to find an expedited strategy for expansion at AUS. My client previously submitted a proposal to the City, at the request of the Department of Aviation, to meet forecasted demand through a new ultra-low-cost airline terminal at AUS. Lonestar's plan proposed to relocate the original South Terminal, clearing



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that land for AUS's own expansion, while adding up to 10 gates, 5 security lanes, 22 check-in counters, and more than 154,000 square feet of terminal space for travelers. That plan – "South Terminal 2.0" – was designed to expand gates for ultra-low-cost carriers while allowing the City to reduce the size, cost and time it would take to expand the Barbara Jordan Terminal. The \$140 million dollar project was to be **fully funded by Lonestar**, with rent and revenue sharing afforded to the City and AUS, a clear benefit to the taxpayers. Lonestar's plan was to complete the construction in just two years. Ironically, had the project been approved when Lonestar presented the proposal in 2019, South Terminal 2.0 would have celebrated its grand opening this past January at a time when AUS desperately needs additional terminal capacity. This circumstance will only worsen in future years.

Lonestar remains committed to assisting the City meet the current challenges at AUS. As Lonestar's representatives have stated on several occasions to your clients, we urge you to take advantage of the opportunity that sits before the City to use Lonestar's expertise and financial resources under the existing Concession to find the right path for expanding airport facilities at AUS quickly and efficiently – just as envisioned when the Concession was granted to Lonestar a few years ago. Lonestar continues to make substantial investments in developing the South Terminal, including a recent investment of over \$1M for an operations base for Allegiant, and remains committed to participating constructively in any expansion or creation of new facilities at AUS.

Should the City Council consider authorizing this taking, they must contemplate the facts and history summarized in this letter, including the City's own records and testimony that support our operation. Eminent domain is costly, inefficient and time consuming. Regardless, Lonestar will not walk away from its investment at AUS, and Lonestar stands ready to vindicate its rights in court as needed.

Sincerely,



Christopher M. Clough

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